

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROBERT HILLMANN,)
)
Plaintiff,) Case No. 04 C 6671
)
v.)
) Judge Castillo
CITY OF CHICAGO,)
)
Defendant.)

DEFENDANT'S MOTION FOR JUDGMENT AS A MATTER OF LAW

Pursuant to Federal Rule of Evidence 50(a), Defendant, City of Chicago (“City”), by its attorney, Stephen R. Patton, Corporation Counsel of the City, moves for a judgment as a matter of law in the City’s favor with respect to each of Plaintiff’s claims. In support of this motion, the City states:

1. During the trial of this matter, Plaintiff, Robert Hillmann, failed to meet his burden of proof as to each of his claims against the City.
2. With respect to Plaintiff’s discrimination and failure to accommodate claims under the Americans with Disabilities Act (“ADA”), Plaintiff failed to establish that he was a qualified individual with a disability. Even if Plaintiff had overcome that threshold, he failed to show that the City was on notice of an ADA-qualifying disability.
3. Further, with respect to his ADA failure to accommodate claim, Plaintiff did not present any evidence that he requested a reasonable accommodation under the ADA.

4. Finally, as to Plaintiff's ADA discrimination, ADA retaliation, and state law retaliatory discharge claim, Plaintiff failed to prove that the City took any employment action against him that violated the ADA or state law.
5. Rather, the undisputed trial evidence demonstrated that Plaintiff's Chief Timekeeper position, along with all other timekeeping positions in the Department of Streets and Sanitation ("Department"), was eliminated during a citywide, budgetary reduction in force ("RIF"). The evidence also showed that Plaintiff's work performance did not entitle him to a merit-based raise in 2001 or in 2002.

WHEREFORE, for the foregoing reasons, which are explained more fully in its supporting memorandum of law, the City of Chicago respectfully requests that this Court grant its motion for judgment as a matter of law in the City's favor as to each of Plaintiff's claims.

DATED: April 16, 2013

Respectfully submitted,

STEPHEN R. PATTON
Corporation Counsel of the City

BY: /s/ Déjà C. Nave
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